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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/521,339

08/12/2005

Kenneth Guild

P63634

9153

156

7590

04/28/2009

Kirschstein, Israel, Schiffmiller & Picroni, P.C.

425 FIFTH AVENUE

5TH FLOOR

NEW YORK, NY 10016-2223

EXAMINER

BELLO, AGUSTIN

ART UNIT

PAPER NUMBER

2613

MAIL DATE

DELIVERY MODE

04/28/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/521,339

Applicant(s)

GUILD, KENNETH

Examiner

Agustin Bello

Art Unit

2613

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 February 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 25-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 25-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 25-30 are rejected under 35 U.S.C. 102(b) as being anticipated by Li (Patent No. US 6,579,018 B1).

Regarding claim 25, Li teaches a method of transmitting information from a start node (i.e. “Node A” in Figure 1) through a plurality of nodes (i.e. “Node D” “Node C” in Figure 1) to a target node (i.e. “Node B” in Figure 1) in a wavelength division multiplex optical communications network, each node including a wavelength selective optical cross-connect (as shown in Figure 23), the method comprising the steps of: configuring the cross-connect at each of the start node and the target node with a plurality of switching matrices (reference numeral 70, 80 in Figure 23) for switching wavelength channels, each switching matrix being operative for switching a wavelength channel of only a single wavelength (i.e. λ_j or λ_k in Figure 23), each single wavelength channel being switchable by only a single switching matrix; applying two wavelength channels having two wavelengths that are different (i.e. λ_j or λ_k in Figure 23), but modulated with the same information (i.e. “Working” and “Protection” throughout), to different respective switching matrices of the cross- connect at the start node (i.e. λ_j applied to matrix 70 and λ_k applied to matrix 80 in Figure 23); transmitting the two applied wavelength channels with the different wavelengths via the plurality of nodes (i.e. “Node D” “Node C” in Figure 1) passing

through different respective switching matrices (reference numeral 70, 80 in Figure 23) of the target node; and extracting (i.e. dropping of λ_j or λ_k in Figure 23) the two transmitted wavelength channels from different respective switching matrices (reference numeral 70, 80 in Figure 23) of the cross-connect at the target node.

Regarding claim 26, Li teaches the method according to claim 25, and keeping the two wavelengths of the two wavelength channels fixed during transmission between the start node and the target node (i.e. λ_j and λ_k in Figure 23).

Regarding claim 27, Li teaches the method according to claim 25, and modifying the wavelength of one of the two wavelength channels at an intermediate node between the start node and the target node (i.e. at least one of the wavelength channels if not both of the wavelength channels are attenuated by the intermediate nodes due to loss).

Regarding claim 28, Li teaches the method according to claim 25, and jointly defining the paths of the two wavelength channels by a central network controller (i.e. any of the “Client NE”) operative for choosing the two different wavelengths for transmission between a last intermediate node and the target node (i.e. the “Client NE” of the target node control the switching matrices of the target node in order to choose the appropriate wavelengths coming from the last intermediate node).

Regarding claim 29, Li teaches the method according to claim 27, and dividing the wavelengths transmissible in the network into at least two groups (i.e. “Working” and “Protection” throughout), and selecting the wavelengths of the two wavelength channels from different ones of the groups (i.e. either λ_j and λ_k in Figure 23 depending upon the fault condition), each wavelength modification of one of the two wavelength channels at an

intermediate node occurring between the wavelengths of a same group (i.e. the same wavelengths with experience the same loss by traversing the intermediate nodes).

Regarding claim 30, Li teaches the method according to claim 25, wherein the transmitting step is performed by transmitting the two applied wavelength channels with the different wavelengths via different paths (as seen in Figure 23) .

Response to Arguments

3. Applicant's arguments filed 02/10/09 have been fully considered but they are not persuasive. Applicant argues that the limitation, "each single wavelength channel being switchable by only a single matrix," distinguishes the claimed invention from the cited prior art. However, the examiner disagrees.

Although Li does teach two switching matrices per wavelength λ_j and λ_k , each of the respective switching matrices is dedicated to a single wavelength, and each wavelength undergoes switching via only a single switching matrix regardless of whether the single wavelength channel is a working or protection channel. Essentially, each single wavelength channel is switchable by only a single switching matrix. The number of switching matrices is immaterial to whether or not each single wavelength channel is switchable by only a single switching matrix.

As to applicant's attempt to substantiate the main argument by pointing to applicant's Figure 2, the examiner notes that one major difference between applicant's Figure 2 and Li's Figure 23 is that each single wavelength channel appears to be split and input to each of the two switching matrices in applicant's Figure 2. Li does not teach any such splitting of the same wavelength to more than one switching matrix.

Given the above, the examiner maintains that Li anticipates the claimed invention.

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Agustin Bello whose telephone number is (571) 272-3026. The examiner can normally be reached on M-F 8:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Chan can be reached on (571)272-3022. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A handwritten signature in black ink that reads "Agustin Bella". The signature is written in a cursive, flowing style.

Primary Examiner
Art Unit 2613